



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

DEC 16 2004

The Honorable Mitch McConnell  
United States Senate  
Washington, DC 20510-1702

Dear Senator McConnell:

Thank you for your December 9, 2004, letter concerning fine particulate matter (PM<sub>2.5</sub>) designations and Boyd County, Kentucky. You forwarded a letter from Judge Bill F. Scott regarding an issue involving a calculation problem in analyzing the monitoring data used for the designation and other designation issues.

As mentioned in my June 28, 2004, and October 28, 2004 letters to you, EPA uses the most recent three years of monitoring data to determine if a monitor is recording a violation. The next step is to determine if there are any nearby areas that are contributing to the violation and include them in the designated nonattainment area. In making this determination, we review all available technical data related to nine factors set out in the April 1, 2003, guidance such as air quality, source locations and emissions, meteorology, terrain, population, commuting, and growth in the area. It is important to remember that PM<sub>2.5</sub> is a regional pollutant and can be transported by prevailing wind.

In making designations, we review each county in every area with a violating monitor for the aforementioned nine factors. While we look for national consistency with our decisions and designations, we evaluate each area individually. EPA and Kentucky have been in extensive dialogue over the past several months regarding the PM<sub>2.5</sub> designation process. The Commonwealth has submitted extensive information regarding the Ashland area.

EPA is using the current information for this area. We have verified with the EPA Office of Air Quality Planning and Standards that we are using the corrected ambient monitoring data, and are comparing the emissions from Boyd County with the emissions in the entire area, including adjacent counties. We also are aware of the declining growth for Boyd County. Growth is one of the factors for assessing the size of the nonattainment area. All of this information is being included in the decision making process which is expected to occur on December 17, 2004, but no later than December 31, 2004.

If you have questions or need additional information from EPA, please contact me or the Region 4 Office of Congressional and Intergovernmental Relations at (404) 562-8327.

Sincerely,

A handwritten signature in black ink, appearing to read "J. I. Palmer, Jr.", with a stylized flourish at the end.

J. I. Palmer, Jr.  
Regional Administrator

DEC. 9. 2004 11:59AM

SEN MITCH McCONNELL

MITCH McCONNELL  
KENTUCKY

NO. 3864 P. 2

361-A RUSSELL SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-1702  
(202) 224-2541

## United States Senate

MAJORITY WHIP  
COMMITTEES:  
AGRICULTURE  
APPROPRIATIONS  
SUBCOMMITTEE ON FOREIGN OPERATIONS  
CHAIRMAN  
RULES AND ADMINISTRATION

December 9, 2004

The Honorable Michael O. Leavitt  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator Leavitt:

I contact you regarding the preliminary designation of Boyd County, Kentucky as a non-attainment area for PM-2.5. As you know, these designations will have significant impacts on economic development in these counties, and it is important that every effort be made to make sure that the designations take all relevant information into consideration.

Judge Bill F. Scott recently contacted me regarding an issue involving a calculation problem in analyzing the monitoring data used for the designation. I have enclosed a copy of Judge Scott's letter for your review. I would appreciate your consideration of the county's concerns regarding this designation.

Thank you for your efforts on this matter, and I look forward to your response.

Sincerely,



MITCH McCONNELL  
UNITED STATES SENATOR

Enclosure

FEDERAL BUILDING  
241 EAST MAIN STREET  
ROOM 102  
BOWLING GREEN, KY 42101  
(270) 781-1673

1885 DIXIE HIGHWAY  
SUITE 345  
FORT WRIGHT, KY 41011  
(859) 678-0188

771 CORPORATE DRIVE  
SUITE 520  
LEXINGTON, KY 40503  
(859) 224-8288

300 SOUTH MAIN  
SUITE 310  
LONDON, KY 40341  
(606) 884-2028

801 WEST BROADWAY  
SUITE 630  
LOUISVILLE, KY 40202  
(502) 582-6304

PROFESSIONAL ARTS BUILDING  
2320 BROADWAY  
SUITE 100  
PADUCAH, KY 42301  
(270) 442-4564

**BOYD COUNTY JUDGE EXECUTIVE  
BILL F. SCOTT**

P. O. BOX 423  
CATLETTSBURG, KENTUCKY 41129

TTY/TDD (800) 247-2510



(606) 739-4134  
FAX (606) 739-5446

December 8, 2004

Senator Mitch McConnell  
361-A Russell Senate Office Building  
Washington, DC 20510

Dear Senator McConnell:

I again seek your assistance concerning the preliminary designation of our County as nonattainment of PM-2.5. I wrote you on September 28<sup>th</sup> because the Kentucky Division for Air Quality was scheduled to meet with U.S. EPA in Atlanta on October 6<sup>th</sup> to discuss Kentucky's analysis and conclusion that our County should be designated as attainment. On October 4<sup>th</sup> you sent a copy of my letter to Administrator Leavitt in order that he would be aware of our concerns and why I believe that it would be a terrible mistake for U.S. EPA to designate Boyd County as nonattainment for PM-2.5. I greatly appreciate your sending the letter to Administrator Leavitt.

We have followed the consultations between Kentucky and U.S. EPA and are advised that Administrator Leavitt will make his final decisions concerning our County probably within the next ten (10) days.

I am writing to you today to express concern that a calculation problem in analyzing the monitoring data has not been corrected. In the October 6<sup>th</sup> Atlanta meeting, Kentucky brought to U.S. EPA's attention that the Office of Air Quality Planning and Standards Organization was not using correct data in determining the design values for each of the monitors. U.S. EPA apparently acknowledged the problem but I cannot get confirmation that the calculations have been corrected.

In my September 28<sup>th</sup> letter I also expressed concern that U.S. EPA's reliance on a weighted emission averaging methodology did not include consideration of all of the adjacent County emissions in its calculations and also may not be considering our declining population as required by EPA's nine factor analysis.



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I regret having to bother you again, but I hope that you will make our concerns known to Administrator Leavitt so that we can be assured that the calculation problem in the analysis of monitoring data has been corrected and that U.S. EPA will follow its own guidelines and the Law in determining our County's future.

Sincerely,



Bill F. Scott  
Boyd County Judge Executive

cc: Secretary Lajuana S. Wilcher  
Environmental and Public Protection Cabinet  
Capitol Plaza Tower, 5<sup>th</sup> Floor  
Frankfort, KY 40601

Commissioner Lloyd Cress  
Department for Environmental Protection  
Environmental and Public Protection Cabinet  
14 Relly Road  
Frankfort, KY 40601

Director John Lyons  
Division for Air Quality  
Department for Environmental Protection  
Environmental and Public Protection Cabinet  
803 Schenkel Lane  
Frankfort, KY 40601-1403

DEC. 9. 2004 12:00PM

SEN MITCH McCONNELL

NO. 3864 P. 5

09/29/04 WED 15:49 FAX 502 582 5328

McCONNELL LOUISVILLE

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**BOYD COUNTY JUDGE EXECUTIVE  
BILL F. SCOTT**

P. O. BOX 423  
CATLETTSBURG, KENTUCKY 41129

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(606) 739-4134  
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September 28, 2004

Fax (202) 224-2499

Senator Mitch McConnell  
361-A Russell Senate Office Building  
Washington, DC 20510

Dear Senator McConnell:

I am writing to you because we greatly need your assistance concerning a conference between U.S. EPA and the Kentucky Division for Air Quality which will be extremely important to our future. Because our small community has lost approximately 2,000 jobs in the past two years, economic development has become one of our County's most important priorities. Therefore, we were surprised and concerned when, on June 29, 2004, U.S. EPA rejected Kentucky's recommendations and preliminarily designated our County as nonattainment for PM-2.5. We were, quite frankly, astonished because the monitor located in our County shows attainment for the standard and we had relied on these monitoring results.

We have investigated the basis for the preliminary designation. We have reviewed U.S. EPA's nine factor analysis which was posted on the web at the time of the preliminary designation. We have also reviewed Kentucky's August 27 response which is also on the web. We understand that U.S. EPA and Kentucky will meet in Atlanta on October 6. At that meeting or soon after the meeting, U.S. EPA will make a final decision about our County. Though we understand the important job that U.S. EPA is performing for our citizens, we also suspect that the staff of the Office of Air Quality Planning and Standards Organization may have limited time and resources to review submittals for each of the 243 counties which received the preliminary designations of nonattainment. Therefore, we request your assistance in determining how we can be assured that the final decision is based on a thorough review of all the important information submitted by Kentucky.



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09/29/04 WED 15:49 FAX 502 582 5328

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I am enclosing Kentucky's response to U.S. EPA which is posted on the web. It is our understanding that before Boyd County can be designated nonattainment, the law requires U.S. EPA to demonstrate that our County is either exceeding the standard or is significantly contributing to nearby nonattainment. Since the monitor in Boyd County shows attainment, U.S. EPA has reached the preliminary conclusion that our County significantly contributes to nonattainment in other areas. This conclusion apparently is based upon U.S. EPA's reliance on a weighted emission averaging methodology. However, it appears that U.S. EPA failed to take into consideration all the adjacent county emissions in its calculations. If it will do so, U.S. EPA's own weighted emission scoring methodology will show that our County does not contribute significantly to PM-2.5 levels in the region.

Therefore, it seems to us that U.S. EPA will make a terrible mistake if it designates Boyd County as nonattainment for PM-2.5. This mistake will have a dramatic impact on our future. Not only will designating our County as nonattainment be a devastating blow to our efforts to attract new industry, it will be even more difficult to encourage our existing industry to modernize and preserve existing jobs. It will be difficult, if not impossible, for local industry to plan expansions when it will not be known until February 2008 what the regulatory requirements will be to achieve compliance with the new standards by February 2010. Additionally, any company considering locating or expanding in Boyd County will be subjected to a lengthy and expensive permitting process including the burdensome requirement of installing equipment that achieves the lowest achievable emission rate (LAER), rather than the conventional equipment allowed in other areas.

I hope that you understand why we are so concerned with the outcome of the October 6 conference between U.S. EPA and Kentucky. The conference is not only important to the citizens of Boyd County but also to the many West Virginians and Ohioans who work in our County producing products which are important to our country's economy and its defense. As you know, we are strong supporters of President Bush. At our local rally on September 10, the President assured us his Administration is doing all it can to regain lost jobs. We know that the President must have a great deal of confidence in Administrator Leavitt. Therefore, we will greatly appreciate it if you will determine how we may make our concerns known to Administrator Leavitt and receive assurances that the information recently submitted by Kentucky will be thoroughly and fairly reviewed before Administrator Leavitt makes his final decision.

Sincerely



Bill F. Scott

Boyd County Judge/Executive

cc: Secretary Lajuana S. Wilcher  
Environmental and Public Protection Cabinet  
Capital Plaza Tower, 5th Floor  
Frankfort, KY 40601

DEC. 9. 2004 12:00PM

SEN MITCH McCONNELL

NO. 3864 P. 7

08/29/04 WED 15:50 FAX 502 582 5328

McCONNELL LOUISVILLE

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Commissioner Lloyd Cress  
Department for Environmental Protection  
Environmental and Public Protection Cabinet  
14 Reilly Road  
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Director John Lyons  
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